IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

THURSDAY, THE 12TH APRIL 2007 / 22ND CHAITHRA 1929

WP(C).No. 12892 of 2007(I)

IN EA.843/06 IN EP.264/03 IN OS.401/2001 of PRL.M.C.-I, KOZHIKODE

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PETITIONER:

VALSALA.V., W/O.BALAN.V., VARIKOLI
HOUSE, KIZHAKKUMMURI PO.,
KIZHAKKUMMURI AMSOM
DESOM OF KOZHIKODE TALUK.

BY ADV. SRI.R.SUDHISH
SMT.M.MANJU

RESPONDENT:

KOROLATH ABDURAHIMAN, REP. BY
POWER OF ATTORNEY HOLDER
A.T.MOIDEEN KOYA, S/O.MUHAMMED KOYA,
CHELAVOOR AMSOM DESOM OF
KOZHIKODE TALUK.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.P. Balachandran, J.

W.P.(C)No. 12892 of 2007 I

JUDGMENT

The petitioner is the judgment debtor in O.S. No.401/01 on the file of the Principal Munsiff's Court-I, Kozhikode. The suit was one for return of the advance money paid by the respondent to the petitioner under an agreement to sell the scheduled property to him. The suit was decreed and it is submitted that the decree debt comes to Rs.1,70,000/- and odd.

2. It is contended by the counsel for the petitioner that an amount of Rs.3,75,000/- is due to the Housing Board, which will be a charge on the property that is sought to be sold in court auction; that the upset price was originally fixed at Rupees five lakhs, but, there being no bidders, the court below, re-fixed the upset price at Rupees four lakhs and ordered sale proclamation and to conduct sale on 12.4.2007 and report on 13.4.2007,

vide Exhibit P2 order.

3. According to the petitioner, the upset price should not have been reduced to Rupees four lakhs at a stretch, reducing it by Rupees one lakh. When there is no bidders to purchase the property for Rupees five lakhs or above, the court below was justified in reducing the upset price to Rupees four lakhs. By fixing the upset price at Rupees four lakhs, it does not mean that if bidders are offering more, the property will, still, be sold at Rupees four lakhs. The property will be sold only for the highest bid. The petitioner can make arrangements to have bidders, who offer price even above Rupees five or six lakhs and fixing the upset price at Rupees four lakhs by itself does not cause any hardship to the petitioner.

4. The further contention that is urged before me is that the husband of the petitioner is a sick person, consequent on a fall from coconut tree and that the petitioner herself is a maid servant and

they are not having any source to pay off the debt. These are not matters, which this Court can take into account to order stay of conduct of sale of the scheduled property.

This writ petition, in the circumstances, is devoid of merit and is, hence, dismissed.

12th April, 2007 (K.P.Balachandran, Judge)

tkv